

The Board finds that claimant's accident did arise out of and in the course of her employment. Claimant fell when she stepped in a hole in the lawn area next to the parking lot where she was told to park her car. The property is leased to respondent, and the lease shows respondent is responsible for the "lawn upkeep." The evidence otherwise shows respondent fixed the holes in the area where claimant fell after the accident, a further indication of respondent's control of the specific area where claimant fell. When the accident occurs on respondent's premises, claimant is not considered to be coming to or going from work. Premises includes areas the respondent does not own but does control. *Thompson v. Law Offices of Alan Joseph*, 256 Kan. 36, 883 P.2d 768 (1994).

But it is not necessary to analyze in any detail whether the injury occurred on respondent's premises because the Board otherwise finds that claimant has not proven the current need for medical treatment stems from the September 1998 injury. Claimant fell out of her chair in June 1999 and again suffered injury to her right lower extremity. The June accident is the subject of a separate claim, one where claimant is represented by other counsel and not consolidated with this claim. As to her ankle, claimant testified:

I just know that my ankle has been injured and has hurt - - ever since I fell in September of '98 in that hole, has hurt more ever since I fell in June '99.

The Board concludes claimant has not proven by a preponderance of the credible evidence that her current need for medical treatment is from her September 1998 accident. Since the June 1999 accident is not part of this claim, the Board concludes this is a jurisdictional issue and is, therefore, subject to Board review in an appeal from a preliminary hearing order. K.S.A. 44-551. Since the benefits sought, medical treatment, are not proven to be related to the accident alleged, the ALJ would not have jurisdiction to award the benefits in this claim and the ALJ's Order denying benefits should be affirmed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Brad E. Avery on July 12, 2000, should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of November 2000.

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BOARD MEMBER

c: Roger D. Fincher, Topeka, KS  
Marcia Yates, Topeka, KS  
Brad E. Avery, Administrative Law Judge  
Philip S. Harness, Director